



INSPECTOR'S CASE MANAGEMENT CONFERENCE SUMMARY NOTE

Appeal Ref: **APP/H1840/W/22/3305934** **Land to the north of Droitwich Spa, Droitwich WR9 0NU**

Outline application for the erection of up to 102 dwellings, new vehicular and pedestrian access, and associated works. All matters reserved except for access.

1. The case management conference was led by the Inquiry Inspector, Luke Fleming BSc (Hons) MRTPI. The Inquiry is to be held at the Wychavon District Council Chambers, The Civic Centre, Queen Elizabeth Dr, Pershore WR10 1PT (13-16 and 20-23 December 2022).
2. The Inquiry is scheduled to sit for up to eight days. However, the full eight days may not be required, particularly if common ground can be agreed with regard to five-year land supply.
3. The Inquiry will open at 1000 on Tuesday 13 December 2022. Subsequent days will commence at 0930. The Inspector will aim to finish no later than 1700 each day. The Council is requested to confirm as soon as possible whether the Inquiry will be live-streamed from the Council Chambers.
4. The advocates were confirmed as Killian Garvey for the appellant, and Hugh Richards, for the Local Authority.
5. The Council is encouraged to draw the attention of interested parties to this Note, including posting a copy on its website.

Statement of Common Ground

6. No signed statement of common ground (SOCG) was submitted with the Council's statement of case as required by the Rules.
7. It was agreed that four SOCG's would be submitted. The first three dealing with (1) landscape, (2) heritage and (3) sustainable location and planning matters will be submitted signed and dated **15 November 2022**.
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8. However, the fourth (4) dealing with five-year land supply is dependant on the Council publishing evidence to justify its position. It was agreed that evidence on the Council's five-year land supply position would be submitted to the Inquiry by no later than **15 November 2022** and then the related fourth SOCG, submitted by no later than **30 November 2022**, with the relevant Proofs of Evidence on this matter also submitted on **30 November 2022**.
9. If these deadlines cannot be met or common ground cannot be agreed on any particular topic for good reason by these dates, but it would assist the

Inquiry to continue working on a relevant matter, the parties should notify the Inspector of any such issues and say when the required information will be submitted.

10. The SOCG's should clearly specify which plans are illustrative and those which should be approved if the appeal were allowed. They should also deal with the Development Plan Policies which are considered most important. They should also, without prejudice to the outcome of the appeal specify the conditions which the parties agree should be imposed on any grant of planning permission, clearly identifying any specific conditions or elements of them which are disputed.

Main issues

11. It was agreed the main issues in this case are likely to relate to:
 - 1) The effect of the proposal on the character and appearance of the area having particular regard to the landscape.
 - 2) The effect of the proposal on heritage assets particularly the setting of the Grade I listed Church of St Mary and the Grade II listed Lyche Gate.
 - 3) Whether the Council can demonstrate a five-year supply of housing land and the extent of any shortfall.
 - 4) Whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.
12. It was agreed that main issue (1) would need to deal with whether or not the proposals would affect "valued" landscape within the terms of paragraph 174 (a) of the National Planning Policy Framework (the Framework).
13. It was also agreed the SOCG relating to heritage is likely to result in agreement that there is no impact on heritage assets other than the Grade I listed Church of St Mary and the Grade II listed Lyche Gate identified in the main issue.
14. The Inquiry will also look at the concerns of third parties and any benefits to be weighed in the planning balance, including any implications of not proceeding with the scheme.
15. It was also discussed that not all planning obligations requested by the Council were agreed, particularly matters relating to the NHS, Sports and Education contributions. It was agreed the parties would work together to try and reach agreement on these matters, through SOCG (3). If agreement cannot be reached, these matters will need to be addressed through the roundtable session on the planning obligation.

Dealing with the Evidence and the Inquiry Running Order

16. It was agreed the Inquiry will follow a topic-based approach.
17. Following the Inspectors opening comments on the first day of the Inquiry, the Inspector will invite opening statements from the main parties, which should be no longer than 5-10 minutes, appellant first, followed by the Council.
18. The Inspector will then hear from any interested parties present who wish to speak. The evidence relating to landscape, followed by heritage assets will then be heard by formal presentation and cross-examination. Thereafter, subject to the agreement of the parties and in-light of any new evidence as set out above, the Inspector will hear formal presentation and cross-examination of evidence relating to the five-year supply, which will be followed by a specific roundtable session on sites which form part of the Council's land supply. An agreed schedule of sites which clearly highlights specific matters in dispute for each site and those sites not disputed will be required and should be submitted as part of the SOCG (4) by no later than **30 November 2022**.
19. Next, the related evidence on sustainable location will be heard through formal presentation and cross-examination. Any outstanding matters, including matters raised by interested parties, planning policy, any benefits and the overall planning balance, will also be dealt with through the formal presentation of evidence in chief and cross-examination.
20. Matters relating to the legal agreement and conditions, will then be dealt with through roundtable sessions led by the Inspector. Those roundtable sessions will be followed by closing submissions (Council, then appellant) which should set out the respective cases as they stand at the end of the Inquiry, with a written copy handed up at the time, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
21. The Inspector will visit the site unaccompanied before the Inquiry opens and will carry out a site visit after the Inquiry has closed. Although open to alternatives, the Inspector, considers this could also be undertaken unaccompanied. The appellant agreed to maintain a site visit itinerary and map of locations for the Inspector to view from, this should be agreed with the Council and interested parties and handed up just before the close of the Inquiry.
22. Initial timings for opening and closing statements, evidence in chief and cross-examination have already been helpfully provided. However, once all the Proofs of evidence and SOCG's have been submitted as set out above, the advocates are requested to submit updated time estimates. It would be helpful for the Inspector to have those estimates no later than **02 December 2022**. Following the receipt of time estimates, the Inspector will seek agreement on a timetable for the Inquiry and will rely on the advocates to keep to their time estimates unless circumstances beyond their control dictate otherwise.

Planning conditions

23. A list of agreed possible conditions should be submitted for consideration in the event that the appeal is allowed. Conditions should comply with the tests set out in paragraphs 55-56 of the Framework. If there are any conditions that the main parties cannot agree upon these should be listed in a separate schedule with an explanation of why agreement could not be reached on them. If there are any pre-commencement conditions agreed, the appellant should confirm in writing in the SOCG that they are accepted. The schedule of conditions should be submitted with the completed SOCG's by **15 November 2022**.
24. The appellant advised further work is being undertaken with regard to Biodiversity Net Gain (BNG). This should be submitted to the Inquiry by no later than **15 November 2022**. However, the parties agreed that subject to the evidence it was likely that a condition would be agreed which seeks to secure a minimum of 20% BNG.

Legal undertaking

25. Submission of a legal undertaking by the appellant should follow the advice in the Procedural Guide to Planning Appeals. A final draft copy of any legal undertaking should be submitted by **30 November 2022**. If the undertaking is by way of unilateral obligation, there is still a duty on the Council to check the draft agreement. The final executed legal undertaking should be submitted no later than three weeks following the close of the Inquiry or a suitable date to be agreed reflecting the Christmas period.
26. For the matters forming the subject of any undertaking, the Council will be required to provide a note explaining how they each meet the tests set out in the Community Infrastructure Regulations and paragraph 57 of the Framework, this note should also be submitted by **30 November 2022**.

Core Documents/Inquiry Documents

27. The parties will need to discuss and agree a list of Core Documents in advance of preparing proofs so they can be properly referenced in the proofs. That list is to be co-ordinated by the appellant and must be submitted with the proofs. A suggested template for that list is attached.
28. The Core Documents should comprise only those documents to which will be referred to and do not need to include a copy of the Framework or deal with areas where there is no dispute. Any Appeal Decisions and/or legal authorities on which any party intends to rely will need to be prefaced with a note explaining the relevance of the document to the issues arising in the Inquiry case, together with the propositions on which any party is seeking to rely, with the relevant paragraphs flagged up.
29. A hard copy set of the Core Documents should be made available on Inquiry opening to form an Inquiry library, which can be accessed by interested parties at the event. The Council will be provided with an electronic set of the documents and it will be for it to print out what

elements it needs in hard copy. The Inspector will use the electronic core documents, however these will need to be on a dedicated webpage and easily accessible without needing to click on multiple weblinks. The weblink for the Core Documents should be provided to the Inspector by no later **02 December 2022**. If those documents are not appropriately accessible, the Council will need to address the matter immediately to the Inspectors satisfaction.

30. Any documents submitted once the Inquiry has opened will be recorded as Inquiry Documents on a separate list to be maintained by the appellant, overseen by the Inspector. A minimum of two copies of any new documents produced at the Inquiry will be required - one for the other main party and one for the Inspector, with extra copies to be made available to assist interested parties if necessary.

Document Submission Dates

31. The SOCG's (1) to (3) including the suggested planning conditions shall be submitted by **15 November 2022**.
32. The Proofs on five-year land supply should be submitted by no later than **30 November 2022**. All other Proofs should be submitted by not later than **15 November 2022**. Details of the preferred format and content of proofs and other materials were attached to the pre-conference note.
33. The final draft copy of any legal undertaking should be submitted by **30 November 2022**. The Council's note explaining how all components of the undertaking meet the tests set out in the Community Infrastructure Regulations and paragraph 57 of the Framework should also be submitted by **30 November 2022**.
34. The Council is to ensure that a copy of the Inquiry notification letter and a list of those notified is sent into the Planning Inspectorate no later than **22 November 2022**.
35. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and the Inspectorate does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **30 November 2022**. It is important that any rebuttal proofs do not introduce new issues.
36. The advocates are to work collaboratively on the time estimates for each stage of their respective cases, with final timings for openings and closings, evidence in chief and cross-examination to be submitted no later than **02 December 2022**. A draft programme will be issued following receipt of the final timings in due course, when the Inspector will have a better feel for the overall duration. Other than in exceptional circumstances, the timings indicated should be adhered to, which will require the cooperation of both advocates and witnesses.

Costs

37. No application for costs is currently anticipated by any party at this stage, although positions were reserved. If any application is to be made, the Planning Practice Guidance makes it clear that it should be made in writing before the Inquiry. Costs can be awarded in relation to unreasonable behaviour which may include not complying with the prescribed timetables. The parties are also reminded in this regard, that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector also has the ability to initiate an award of costs.

L Fleming

INSPECTOR

11 November 2022

**TEMPLATE FOR CORE DOCUMENTS LIST
(adapt headings to suit)**

- CD1 Application Documents and Plans**
 - 1.1
 - 1.2 etc

- CD2 Additional/Amended Reports and/or Plans submitted after validation**
 - 2.1
 - 2.2

- CD3 Committee Report and Decision Notice**
 - 3.1 Officer’s Report and minute of committee meeting
 - 3.2 Decision Notice

- CD4 The Development Plan**
 - 4.1
 - 4.2

- CD5 Emerging Development Plan**
 - 5.1
 - 5.2

- CD6 Relevant Appeal Decisions***
 - 6.1
 - 6.2

- CD7 Relevant Judgements***
 - 7.1
 - 7.2

- CD8 Other**
 - 8.1
 - 8.2

* Any Appeal Decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.